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ference with pregnancy. HELD: That, regardless of whether defendant performed the operation, he was guilty of the grossest negligence in the care administered, and the jury was justified in finding that such negligence was responsible for death; and that plaintiff was entitled to recover, as damages, the value of the loss of work and services which he was reasonably entitled to expect from her, also, for expenses of the funeral, but not for the loss of the society and companionship of such unmarried daughter.

State ex rel Friend et al vs. District Court et al. As part of a mass of litigation it appears that G-B Company defaulted in a garnishment proceeding against it, judgment being also by default against the main defendant. In the delay that followed, disputes arose between stockholders in G-B Company, some of which stipulated to dismiss proceedings to set aside the default. Action was then commenced in State District Court to have the property of G-B Company sequestered and receiver appointed. Receiver was appointed by the State Court, possession taken and regular course pursued. Within four months petition in bankruptcy was filed in U. S. District Court by creditors of G-B Company. HELD: That the Supreme Court, under its power of supervision over inferior courts, will intervene in such case and enjoin further proceedings by the State Court and the receiver until the determination of the issue in the federal court, in order to avoid a possible conflict of jurisdiction, but that such injunction will not extend to the payment of necessary expenses, such as rent and clerk hire, to protect the business.

THE PUBLIC—AND A CODE OF ETHICS

The August issue of the American Bar Association Journal contains an article on "Does the Public Need a Code of Ethics Too"? by Hon. Sveinbjorn Johnson, formerly of the Supreme Court of North Dakota. In the same issue appears, also, an editorial, entitled "The Party of the Third Part", which we quote in full, towit:

No problem, least of all one so complicated as that of the administration of justice, can be understood or dealt with effectively unless all of the main agencies involved are given due attention. For this reason it is well from time to time to turn from the responsibility of the Bench and Bar in this important field and consider the obligations and performance of the party of the third part—perhaps the party of the first part from the standpoint of importance—viz: the public. For it may be taken for granted that unless there is co-operation of all three factors to a reasonable extent, no results of real importance are likely to be achieved.

The public is, of course, a vague and elusive entity, and, in consequence, it is generally defined in accordance with the particular need of the occasion. Sometimes it is idealized as an impeccable, disinterested, patriotic body that is deeply resentful of defects in the administration of justice and that is demanding that they should be done away with on pain of its grave displeasure. Sometimes it is denounced as a body of indifferent citizens who neglect their duties at the polls and thereby permit the wrong sort of men and measures to prevail. Sometimes, when subjected to examination such as appears in Judge Johnson's article, it appears to be made up in considerable part of voters who

are willing to violate their duty, not by mere abstention from participation in public functions, but by active support and advocacy of men and measures that, by the most ordinary standards of propriety, are not entitled to support. Sometimes, as has been demonstrated recently in Chicago at a judicial election, and doubtless in other communities, it appears made up to a large extent of voters who are quite willing, once the situation is put clearly before them, to repudiate boss control and manifest independence in the selection of members of the Bench. The actual public, in contrast with the idealized one, is, of course, made up to some extent of all these elements, and the proportions at any one time will depend on circumstances and the activity and influence of particular leaders.

It is this somewhat elusive body that affects the administration of justice by its general attitude towards the law and its enforcement; by the standards which it applies in the election of public officials charged directly or indirectly with duties in that regard; by its willingness or unwillingness to participate in the public functions of the State in a variety of ways; by its readiness to follow or to disregard the counsels of experience where changes in methods seem desirable. And here its attitude not only determines the manner in which the public will discharge its own immediate duty in this regard, but also has a marked effect on the way in which the agents of justice discharge theirs. As Judge Johnson says: "It is but an affirmation of the simple fact that men are not divested of their human attributes merely because they become members of the Bar or are exalted to the judicial office, to say that they are susceptible to the subtle influence which public sentiment in a republic has upon men. Unknowingly and unconsciously, perhaps, but certainly for good or ill, they feel the pressure of the prevailing standards. In most cases, doubtless, when that pressure becomes consciously felt and, therefore, directly offensive, judges resist it to the utmost when contrary to legal principles or subversive of the judicial oath; but in the majority of instances the influence is not felt in that way. It is there notwithstanding. Like the atmosphere which surrounds the earth, its pressure is steady and irresistible. We may not feel it; we may not know or sense it; yet, like the mists which seem to penetrate solid walls, the sure and subtle power of public opinion is ever upon us."

Such being the case it is quite evident that a constant education of the public in right standards of administering justice is one of the most important things that can be proposed to improve conditions. Bar Associations are doing something in this direction, but the cooperation of other agencies is needed. Certainly as long as a large proportion of the American people think of law in terms of pugilistic contests between opposing counsel, and are willing to be mere spectators instead of realizing their functions as helpful agents in its enforcements, the best laid plans of Bench and Bar for improvement are going to meet with unnecessary obstacles. Improvements will, of course, be made, and are slowly being made all the time; but progress has to carry a heavy weight due to outworn ideas and primitive survivals in the public mind, which are stimulated from time to time by short-sighted orators accustomed to deliver reflex addresses, at every suggestion for improvement, on the dangers to our ancient liberties.

While the process of education is going on, it would be well for

legislators and others dealing with problems connected with the administration of justice to keep clearly in mind the real third factor in such problems instead of the idealized factor. The public as it is, with all its virtues and its defects, with its possibilities of being misled as well as its willingness, if sufficiently impressed, to respond to the right sort of an appeal, is fairly well known. The idealized public does not exist except as an ideal which is very far from being attained. If the real public is kept in mind, and particularly if the real public is brought to understand just what it is doing and ought to do in the interests of law and an orderly administration of law, plans for everything from probation and parole to the expedition of trials and the election of judges will be much more practical and productive of tangible results.

MAKESHIFT LEGISLATION AND ADMINISTRATION

At the annual meeting President McIntyre fittingly called attention to the unwarranted manner in which emergency clauses are sometimes attached to legislative enactments. May one not suggest, with just as much propriety, however, that some of our so-called thoroughly-considered laws have rather strange inconsistencies, or are administered in inconsistent ways?

Let us refer to the Compensation Law for an example. Supposedly, it is a compulsory law. The compulsory feature is somewhat destroyed, however, by the practical effects of administrative procedure. One of the elements of the compulsion is found in Section 11 of the Act, which specifies that claims may be filed in case the employer was not insured, "and the Bureau shall hear and determine such application for compensation in like manner as in other claims before the Bureau;" then, in case of award, the employer must pay it.

But, instead of continuing the informality of the regular claims, which are very largely ex-parte proceedings, in which the machinery of the Bureau is used to assist the claimant in proving his claim, the man who is NOT insured really gets a better deal than the one who is insured; for when it appears than the employer specified in a claim is not covered by insurance, a majority of four to one on the Bureau favors dismissal of the claim on the ground of "no-insurance." That procedure makes it necessary for the claimant to file a new claim (which the Bureau calls an "elective") or sue his employer directly in court. The practical effect of the first dismissal, however, is to make ninety per cent of such claimants think that all of their rights have been determined in that dismissal, and they take no further action. A widow, whose husband was killed in the course of his employment, is now presenting that very contention in a specific case.

Suppose, however, that an "elective" claim is filed. Is the procedure of the regular claims followed? By no means. It is required that petitions and answers must be filed and served; that a day of hearing be set; that proof and counterproof be presented and received; that practically all of the formalities of court procedure, including long delays, shall be part of the performance.

This question appears to be pertinent: Why should one whom the compulsory features of the Act have NOT brought within its terms be accorded more consideration in the way of constitutional formalities than the one who has complied by the payments of premiums? The law itself, aside from administrative practice, does accord